

RESOLUTION NO. 15-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THE CITY COUNCIL TO ADOPT ZONING AMENDMENT NO. ZA15-0004 TO INTRODUCE AN ORDINANCE RELATING TO SPECIAL EVENTS AND ACTIVITIES

WHEREAS, the regulations for special events and activities are currently listed under Temporary Uses (Section 13) of the Milpitas Zoning Ordinance and establishes the general requirements for review and approval; and

WHEREAS, the Planning Commission Subcommittee directed staff to further streamline the permit process for special events and activities given the number of annual events that are held by various groups and companies in the City of Milpitas; and

WHEREAS, on August 1, 2014, the Planning Division initiated a process to amend the Milpitas Zoning Ordinance to clarify and streamline the review and permitting process for special events and activities; and

WHEREAS, the proposed text amendment will create certain efficiencies for permit reviews in that it will provide for uniform procedures to promote and protect the rights of those organizing special events, those participating in them, and those living and working nearby; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project is exempt and will not have a significant effect on the environment; and

WHEREAS, on May 13, 2015, the Planning Commission Subcommittee reviewed and recommended the proposed changes to the Planning Commission; and

WHEREAS, on June 10, 2015, the Planning Commission conducted a duly noticed public meeting and adopted Resolution No. 15-017 recommending the City Council amend the Milpitas Zoning Code to (i) clarify the definition of "Special Events"; (ii) repeal the existing Special Event provisions; and (iii) add a new Section 15 entitled "Special Events and Activities"; and

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1: The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2: The Planning Commission has reviewed and exercised its independent judgment on the environmental review for the Zoning Amendment to adopt provisions relating to Special Events and Activities to the Zoning Code, in accordance with the requirements of the CEQA, and State and local guidelines implementing CEQA, and determined that the Zoning Amendment will not have a significant effect on the environment pursuant to CEQA Guidelines sections 15060(c)(2), 15061(b)(3) (general rule), 15183 (projects consistent with a community plan, general plan, or zoning), 15262 (feasibility and planning studies), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance. The Zoning Amendment is not subject to further CEQA review since the Zoning Text Amendment is covered by the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. It can be seen with certainty that there is no possibility that the amendment may have a significant impact on the environment because the proposed amendment will not expand the range of uses permitted in the Zoning Code, nor will it increase the development intensity of uses authorized in the Zoning Code. The proposed zoning amendment consist of zoning test changes removing provisions for special event and activities in Section 13.11 (G) and creating Section 15 for Special Events and Activities that includes review requirements and standards procedures. Therefore, the proposed action qualifies for this exemption and no further environmental review is required.

SECTION 3: Zoning Text Amendment (Section XI-10-57.02.G.3)

1. The proposed amendment is consistent with the General Plan.

The proposed Ordinance is consistent with and implements the City of Milpitas' General Plan. The Ordinance promotes and encourages events for the greater good and cultural diversity of the City and establishes a structured process for permitting special events and activities that insure the City, residents and visitors have adequate notice of proposed events and activities and that the events and activities are properly planned and coordinated.

The project is also consistent with the following General Plan Guiding Principles and Policies:

- Implementing Policy No. 2.a-I-7 Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.
- Implementing Policy No. 2.d-G-2 - Develop adequate civic, recreational, and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

2. The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.

The proposed zoning amendment will include provisions to ensure public health, safety, and the general welfare standards are met for special events and activities. The zoning provisions will provide requirements, establish permit application filing procedures, and provisions for permit approvals and denials.

SECTION 4: The Planning Commission of the City of Milpitas hereby adopts this Resolution No. 15-017 recommending the City Council adopt Zoning Amendment No. ZA15-0004 to amend the Zoning Code to add provisions relating to Special Events and Activities, subject to the findings herein. A copy of the proposed Ordinance is attached to this Resolution for reference.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on June 10, 2015.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on June 10, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal				
Larry Ciardella				
Hon Lien				
Demetress Morris				
Rajeev Madnawat				
Gurdev Sandhu				
Ray Maglalang				
Zeya Mohsin (alternate)				

Exhibit A

REGULAR

NUMBER: ____.

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER __ OF TITLE __ OF THE MILPITAS MUNICIPAL CODE RELATING TO _____

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, _____
_____; and

WHEREAS, _____; and

WHEREAS, _____; and

WHEREAS, _____; and

WHEREAS, _____; and

WHEREAS, _____.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

The definition of “Special Events and Activities” in Section 2 of the Milpitas Zoning Code is deleted in its entirety as follows:

Section XI-10.13.11.G entitled “Special Events and Activities” is deleted in its entirety and the provisions thereafter is renumbered as follows:

- G. Temporary Buildings or Structures. Temporary buildings or structures may be permitted, subject to the following provisions:
1. Authorization. Written authorization for the sale shall be obtained from the property owner.

2. Location. The temporary building or structure shall not be visible from adjacent streets or right-of-ways.
 3. Review Requirements. Temporary buildings or structures shall require the approval of a Conditional Use Permit, in accordance with Section XI-10-57.04, Conditional Use Permits, of this Chapter.
 4. Only temporary buildings and structures serving permitted uses or uses that received a Conditional Use Permit pursuant to the underlying zoning are allowed.
 5. Time limits. Temporary buildings shall not exceed two (2) years in undeveloped sections of the City, and for periods not to exceed six (6) months in developed sections. Exceptions may be granted if required by County, State or Federal agency.
- H. Temporary Contractor's Office. Temporary contractor's office trailers and construction-related storage trailers in undeveloped and developed sections of the City shall comply with the following:
1. Location. Trailers shall not obstruct driveways or traffic access aisles.
 2. Other Standards.
 - a. The applicant shall demonstrate that parking will not be negatively impacted.
 - b. The colors and materials shall complement the main building, if one exists.
 - c. Any exterior noise-generating equipment associated with trailers shall not be within 300 feet of a residential or mobile home park overlay district or use.
 - d. Trailers shall be removed upon cessation of permitted construction activity.

Exceptions. Any deviation from standards 1 and 2 above shall only be allowed through the approval of a Minor Site Development Permit.

- I. Conditions. When considering approval of a temporary use or structure, the review authority may impose conditions deemed necessary to ensure that the permit or approval will be in accordance with the standards prescribed in this Section and the findings required for the approval. These conditions may include, but are not limited to:
1. Regulation of operating hours and days;
 2. Provision for temporary parking facilities, including vehicular ingress and egress;
 3. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
 4. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 5. Provision for sanitary and medical facilities;
 6. Provision for solid, hazardous and toxic waste collection and disposal;
 7. Provision for security and safety measures;
 8. Regulation of signs;

9. Submission of a performance bond or other surety devices, satisfactory to the review authority, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;
10. Provision for visual screening, not limited to landscaping;
11. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Section.

A new Section XI-10-13.15 is added to the Milpitas Zoning Code to read as follows:

XI-10-13.15 Special Events and Activities

A. Purpose and Intent.

The purpose and intent of this Section is to provide a regulatory framework for permitting Special Events. Special Events shall be conducted so as not to cause any detrimental effects to surrounding properties and the community, and shall not violate any other ordinance, regulation or policy of the City. The provisions set forth in this Section shall establish criteria for characterizing events as Special Events and standards and conditions for approving and permitting such Special Events.

B. Applicability

This Section shall apply to any Special Events on private property and certain public property as further described in this Section.

C. Definitions

The definitions set forth in this part shall govern the application and interpretation of this Section.

1. “Amplified Sound” means any sound created by the use of sound amplification equipment and/or performance with electric or acoustical instruments associated with a Special Event.
2. “Athletic Events” means a physical or endurance activity that includes but not limited to races, runs, walkathons, bicycle tours, and the alike.
3. “Block Party” means a party for residents of a block or neighborhood, typically held on a closed-off City street for a duration of time.
4. "Business day" means any day except Saturday, Sunday and holidays observed by the City of Milpitas.
5. “Business License” means a permit issued by the City of Milpitas that allows individuals, companies, or other entities to transact and conduct business within the City limits.

6. "Director" means the Director or head of the department(s) designated to issue special event permits, or such other person or persons designated by the Director to fulfill the responsibilities identified as the Director's responsibilities hereunder.
7. "Downtown" means central area, main business or commercial areas within the Midtown and Transit Area Specific Plan areas and the Town Center Zoning District.
8. "First Amendment Event" means the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for redress of grievances.
9. "Food Truck Event" means an event where a more than one food truck gathers in one location.
10. "Indoor/Outdoor Facility Rental Agreement" means a rental agreement issued by the Recreation Services Department to conduct a special event in a park.
11. "Outside Agency" means any local, state or federal regulatory agency responsible for administering permits to allow certain activities within their purview. Outside agencies includes but not limited to other jurisdictions, such as, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), California Department of Transportation (Caltrans), California Department of Alcoholic Beverage Control, Santa Clara County Department of Environmental Health, Santa Clara County Roads and Airports.
12. "Parade" means an organized group marching or in procession on a street. The definition of parade does not include races, runs or other athletic events.
13. "Park", for purposes of this chapter, means all outdoor areas managed by the Recreation Services Department, which are identified as a City park by the City, made available for use by the public as a park for recreation or open space purposes, and over which the City has the right of use for such purposes. The term "park" does not include outdoor areas adjacent to community centers not otherwise located within a City park, or property owned by school districts even if the property is used by the City for recreational purposes.
14. "Paseo" means a mall designed and used for pedestrian passage between two or more parallel streets in the Downtown and which is owned or controlled by the City. The definition of "Paseo" includes any adjacent sidewalks.
15. "Permittee" means a person, company, corporation or entity that is given a permit or permission to conduct a Special Event under this Section.
16. "Permit Applicant" means a person, company, corporation or entity that applies for a permit under this Section.
17. "Plaza" means a public square or similar open area in the Downtown which is owned or controlled by the City. The definition of "plaza" includes any adjacent sidewalks.
18. "Regulations" means the policies, rules and regulations governing the use of the City sidewalks, streets, Plazas, Paseos, and Parks that are issued by the City.
19. "Simple Assembly" means a gathering of persons at a Park, Plaza or Paseo that does not include any of the following:
 - a) The placement or erection of equipment or temporary structures other than one small portable table and two chairs; or

- b) The other activities referenced in Section XI-10-13.15(19)(c) of this Municipal Code.
 - c) For purposes of illustration, a simple assembly can be a large gathering of one hundred fifty persons or within the maximum capacity allow for the facility; no equipment or structures (other than a table and two chairs) are placed or erected; and the other activities (i.e. cooking, sale or public distribution of food and commercial merchandise) are not involved. Nothing herein prevents the use of handheld equipment, including a loudspeaker, and handheld signs at a simple assembly, provided it does not violate any other Regulations or law.
20. "Special Event" means an outdoor event that consists of any of the following:
- a. A Parade or assembly consisting of persons, animals, vehicles, or any combination thereof, which is to assemble or travel in unison on any street and which does not comply with applicable traffic regulations, laws, or controls;
 - b. An organized assemblage of more than one hundred fifty or more persons at a Plaza or Park or seventy-five or more Persons on the Paseo or any assemblage that exceeds the maximum capacity of the Plaza, Park or Paseo facility gathered for a common purpose under the direction or control of a person or organization; or
 - c. An activity or event on a public right-of-way, Plaza, Paseo, Park or private property which involves:
 - i. The placement or erection of equipment or temporary structures other than one small portable table and two chairs, including but not limited to a booth, tent, canopy, stage, barricade, fencing, generator, heating equipment, sound amplifier, vehicle or float;
 - ii. The use of live animals, fireworks, pyrotechnics, electrical power and/or cabling, or equipment or materials that can create a risk of damage to public or private property or injury to persons;
 - iii. Cooking or the sale, preparation for sale or commercial distribution of food or beverages; or
 - iv. The sale of commercial merchandise.
 - d. An activity which involves blocking off a street or other use of a street which obstructs the normal traffic thereon.
 - e. Examples of special events include, but are not limited to, concerts, parades, carnivals, fairs, festivals, block parties, public dances, street fairs, community events, sporting or athletic events, parties, meals, food truck gatherings, celebrations and receptions.
21. "Special Event Permit" means a permit issued pursuant to this Section, which authorizes the Permittee to conduct a Special Event at a Special Event venue in accordance with its terms and conditions. A Special Event Permit may include a Temporary Street Closure Permit, Temporary Assembly Permit, and any outside

agency regulatory permits that may be required for the operations and activities for the aforementioned Special Event.

22. "Special Event Venue" means the outdoor area (i.e., private property, street, Park, Paseo, or Plaza) for which a Special Event Permit has been issued.
23. "Street" means a public street used for vehicular traffic that is owned, controlled or maintained by the City. The definition of "Street" includes all of the area of the street right-of-way and including any and all adjacent sidewalks.
24. "Temporary Street Closure Permit" means a permit issued by the Chief of Police of the Milpitas Police Department or designee to conduct a Special Event on a Street.
25. "Temporary Assembly Permit" means a permit issued by the Fire Marshal for the temporary assembly of fifty or more people associated with a Special Event.
26. "Temporary Collection Service Agreement" means an agreement between the Permittee and City's authorized collector for the trash and recycling collection.

D. Review Requirement.

Special Events shall require review and approval in accordance with Table XI-10-15-1 below.

Table XI-10-15-1
Review Requirements for Special Events

Threshold for review	Staff Review	Planning Commission Subcommittee	Planning Commission
Minor Events <ul style="list-style-type: none">Any event with or without amplified sound that does not exceed four (4) consecutive days.Block parties on a residential street.¹	X		
Major Events <ul style="list-style-type: none">Any event that exceeds four (4) consecutive days and up to seven (7) days with or without amplified sound; street closures required as part of event; or any event that		X	

¹ See MMC V-100-13.05

Threshold for review	Staff Review	Planning Commission Subcommittee	Planning Commission
anticipates crowds exceeding 1,000 people.			
Multiple Reviews <ul style="list-style-type: none"> • One time review for multiple request for a maximum of four (4) occurrences per year • Three (3) year permit approval for events that have been held annually in three (3) consecutive years in the same location, provided the event layout, date and times are adhered to by the applicant. 		X	
Denial, Appeals or Revocations <ul style="list-style-type: none"> • Hearing on a notice of decision to deny an application for special event permit or to revoke or appeal conditions on a special event permit 			X

E. Permit Required.

No person, company, corporation, association, entity or otherwise shall conduct or cause to be conducted, participate or engage in, hold, manage, permit, or allow another to conduct a Special Event in, on or upon any Street, Paseo, Plaza or Park unless authorized to do so as follows:

1. By this Section or otherwise by this Municipal Code;
2. Pursuant to the terms of a permit, lease or contract which has been entered into by the City in accordance with the provisions of this Municipal Code or as specifically authorized by the City Council; or
3. In accordance with a Special Event Permit.

F. Exceptions to Permit Requirement.

The following activities are exempt from the Special Event Permit requirement:

1. Activities on a Street conducted by a governmental agency acting within the scope of its authorized functions;
2. A simple assembly on an area of a Plaza or Park that is open to the public and which has not been reserved for use, provided that the assembly remains in compliance with all regulations applicable to the Plaza or Park, including but not

limited to the capacity limits of the applicable area of the Plaza or Park or noise requirements.

3. Park rental for the purpose of private party not open to the general public.

G. Issuance of Special Event Permits.

1. The Director is authorized to issue Special Event Permits consistent with Table XI-10-13.15-1 (Review Requirements).
2. Special Event Permits are issued on a first-come, first-served basis to applicants who comply with the Permit Application procedure and requirements set forth in this Section and the regulations issued under this Section.
3. The Director may condition any permit issued pursuant to this Section with reasonable requirements concerning the time, place or manner of holding the Special Event as is necessary to coordinate uses of public property, assure preservation of public property and public spaces, prevent dangerous, unlawful or prohibited uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the venue, provided that such requirements shall not be imposed in a manner that will unreasonably restrict expressive or other activity protected by the California or United States Constitutions. Conditions may include, but are not limited to, the following:
 - a. The establishment of an assembly or disbanding area for a Parade or like event;
 - b. The accommodation of a Special Event's pedestrian and vehicular traffic, including restricting events to City sidewalks, portions of a Street, or other public right-of-way;
 - c. Conditions designed to avoid or lessen interference with public safety functions and/or emergency access;
 - d. The number and type of vehicles, animals, or structures to be displayed or used in the conduct of the Special Event;
 - e. The inspection and approval by City personnel of stages, booths, floats, structures, vehicles or equipment to be used or operated during the Special Event to ensure that such structures or vehicles are safely constructed and can be safely operated, and conform to the requirements of all applicable codes;
 - f. A cleaning and repair deposit;
 - g. Display or use of animals;
 - h. Operation of water stations;
 - i. Affixing or applying materials on City property;
 - j. Use of fireworks, pyrotechnics, or equipment or materials that create substantial risk of damage to City property;
 - k. Sporting events on non-athletic fields;

- l. Cooking, preparation for sale, or sale of food or beverage;
- m. The provision and use of traffic cones or barricades or traffic control personnel;
- n. The provision or operation of first aid stations or sanitary facilities, including sanitary facilities with disabled access;
- o. The provision of a waste and recycling management plan, and the clean-up and restoration of the site of the special event;
- p. The use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used in the course of the special event;
- q. The manner of providing notice of permit conditions to special event vendors or participants and community notice of the special event to those businesses or residents who may be directly affected by the conduct of the event;
- r. The provision or use of emergency services;
- s. The reasonable designation of alternate sites, times, or dates;
- t. The obtaining of any and all business licenses or other necessary permits required by local and state governmental agencies for the sale or distribution of food, beverage or other goods or services at the special event;
- u. The manner by which alcohol sales and service, if any, shall be conducted at the special event;
- v. The precautions necessary for the protection of wildlife, native plants and sensitive habitats, streams, lakes and waterways within or adjacent to the special event.

H. Rules and Regulations.

- 1. The Director is authorized to promulgate rules and regulations consistent with this Section, and to place reasonable time, place and manner conditions, consistent with this Section, on Special Event Permits, including without limitation, limits on the number of permits issued per month, the duration of a permit or event, and the times the special event venue is available for event reservation. Nothing herein limits the authority of the Director of Public Work, City Traffic Engineer, Fire Marshal, Chief of Police and/or Recreation Services Manager, to issue regulations applicable to parks, public right-of-ways, and/or private property.
- 2. It shall be unlawful to disobey or fail to follow regulations adopted pursuant to this Section, or any other rule, regulation, or lawful direction promulgated or made by the Director.

I. Fees and Charges for Special Events.

1. An applicant for a special event permit shall pay all fees, deposits and applicable City charges in the amounts and at the prescribed time, as set forth in a resolution of the City Council.
2. A Permittee shall be responsible for the actual costs of cleaning and repairs made necessary by the Permittee's use of the special event venue.
3. Upon conclusion of the special event, the City shall send an invoice to the Permittee for all fees and charges still due to the City, and for the costs of services provided by City departments, and for the costs to the City of any cleaning and/or repairs to the special event venue made necessary by the Permittee's use.
4. Any person who conducts, organizes, sponsors or produces a special event without obtaining a permit in violation of this chapter shall be responsible for the actual costs of cleaning and repairs to the special event venue and City departmental service charges incurred in connection with or due to the special event.
5. Any indigent natural person who intends to engage in a free speech event who cannot afford to pay a permit fee shall not be required to pay the fee. Application for indigent status shall be made at the time of permit application and shall be accompanied by such relevant information and documentation as the Director determines is reasonably necessary to verify such status. For purposes of this subsection, "indigent natural person" includes, but is not limited to, a person enrolled or participating in a federal or state government assistance program for low-income or indigent persons such as general assistance, CalWORKS, Medi-Cal, food stamps, Supplemental Security Income (SSI), Women, Infants and Children (WIC), U.S. Department of Housing and Urban Development (HUD) Section 8 rental housing subsidy, and other subsidized or public housing. Nothing herein shall exempt an indigent natural person from the requirement to apply for and obtain a permit under this Section.

J. Indemnification and Hold Harmless.

To fullest extent permitted by law, each Permittee to whom a special event permit has been granted must agree in writing to indemnify and hold the City, its officers, agents and employees, harmless from and against any and all liability for injury to persons or property arising or relating to the Special Event Permit or the permitted or unpermitted activity of the Permittee and said person shall be liable to the City for any and all damage to City property, facilities and buildings owned or controlled by the City, which results from any act or omission of the Permittee or its employees, contractors, agents or invitees. Additionally, each person to whom a permit is granted must agree in writing to waive all claims or causes of action against the City, its officers, employees or agents which such person may have at any time for damage to or loss of property of any type or form or for injury to persons in, about or upon the permitted or reserved facilities, from any cause or causes arising at any time, except for the active sole negligence or willful act of the City, its officers, employees or agents, and to which the person to whom a permit is granted in no way contributed, either actively or passively, to causing such damage, loss or injury, either directly or through any other person, agent, partner, contractor or associate.

K. Insurance Requirements.

1. As a condition of the special event permit, the Permittee shall provide the Director with proof of insurance as prescribed in the regulations no later than eight business days prior to the special event, which insurance shall remain in full force and effect throughout the term of the special event permit. The following are excepted from the requirements of this section:
 - a. Any special event where the requirement for insurance is prohibited by law; or
 - b. Any special event where exemption is obtained as provided in the regulations.
2. When an application for a Special Event Permit may be submitted to the City less than fourteen (14) days prior to the special event under this Section, the Permittee shall provide the Director with proof of insurance as prescribed in the regulations no later than two (2) days prior to the Special Event.

L. Permit Application.

1. An applicant for a special event permit shall file an application on a form provided by the Director, which shall contain all of the following information:
 - a. Name, address and contact information for applicant.
 - b. A narrative description of the proposed activity, including:
 - c. The name of the proposed activity, if any;
 - d. Expected attendance numbers;
 - e. A description of any proposed food, beverage or alcohol service;
 - f. The schedule of events to be included in the activity;
 - g. A solid waste handling;
 - h. A security plan and/or public safety plan when required by the regulations; and
 - i. Traffic handling and parking plan;
 - j. Pedestrian circulation plan;
 - k. Temporary Event Signage;
 - l. The proposed special event venue and the specific area or areas thereof which will be utilized in connection with the special event;
 - m. A detailed drawing depicting the layout of the proposed activity, including the number and location of any booths, cooking equipment, tables, canopies, stages, fencing, waste receptacles, signage, generators, and any other event equipment proposed to be placed at the special event venue;
 - n. The date(s) and the specific times requested for use of the special event venue;
 - o. The approximate number of vendors, if any;

- p. For parades:
 - i. The parade route to be followed;
 - ii. Start and termination points;
 - iii. The location of assembly and disbanding areas; and
 - iv. The maximum length of the parade components in miles or fractions thereof;
 - q. A certification that the applicant shall be financially responsible for any City fees, departmental service charges or costs that may lawfully be imposed for the special event;
 - r. The name, address, e-mail address and telephone number of the person to be contacted regarding the application or permit and, if different, the person to be contacted on the date or dates of the special event;
 - s. The types of City services, if any, that are requested by the applicant; and
 - t. Outside Agency and/or third party approvals.
2. An application shall not be complete until the applicant submits the following items, as applicable, in addition to the completed application form:
- a. The permit fee or deposit as prescribed by the schedule of fees established by City Council Resolution; and
 - b. The cleaning and damage deposit or fee amount prescribed by the schedule of fees established by City Council Resolution.

M. Permit Application Filing time.

- 1. A completed application for a minor special event shall be submitted no less than forty-five (45) calendar days before the date of the proposed Special Event.
- 2. A completed application for a major special event shall be submitted no less than sixty (60) business days before the date of the proposed Special Event.
- 3. For an event that requires a street closure on more than one public street, significant detouring which affects significant number of businesses or residences, or require an encroachment permit from Caltrans, a completed application for the special event permit shall be submitted no less than one hundred eighty (180) calendar days before the date of the proposed Special Event.
- 4. For a processions or parades that does not involve street closures, vehicles, floats, or use of equipment other than hand-held equipment, an application for a special event permit shall be filed not less than fourteen (14) business days before the date of the proposed Special Event. If such parade is a First Amendment event planned in response to a contemporaneous public event or decision which could not have been known in advance, a special event permit shall not be required; however, the person conducting, organizing or sponsoring the parade shall provide notice to the Milpitas Police Department no later than forty-eight (48) hours prior to the commencement of the parade.

5. The Director shall have the authority to consider, grant or deny any completed application for a special event permit which is submitted later than the time prescribed in this Section, if good cause is shown and the nature of the application reasonably and feasibly lends itself to expedited processing based on the size, location and duration of the special event, the amount of equipment proposed to be used, and the impact on traffic and on other users and surrounding businesses and residents of the special event venue.

N. Tentative or Conditional Permit Approval.

1. The Director shall tentatively approve or conditionally approve a special event permit application under this Section if the Director finds that the following criteria have been met:
 - a. The proposed use of the property is not governed by or subject to any other permit procedures provided elsewhere in this Municipal Code or other applicable laws, rules or regulations;
 - b. The special event with sufficient traffic controls and conditions will not create a threat to public safety;
 - c. The special event will not unreasonably conflict with construction in or use of the public right-of-way or public facility;
 - d. The special event will not require the diversion of public safety or other City employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the City;
 - e. The concentration of persons, animals or vehicles will not unreasonably interfere with the movement of police, fire, ambulance, and other public safety or emergency vehicles on the streets;
 - f. The special event will not unreasonably interfere with any other special event for which a permit has already been granted or with the provision of City services in support of other scheduled events or scheduled government functions;
 - g. The proposed use, event or activity will not have a significant adverse environmental impact;
 - h. The proposed use, event or activity does not present a substantial or unwarranted safety, noise or traffic hazard;
 - i. The proposed special event will be consistent with the regulations established for each potential venue with regard to:
 - i. Size;
 - ii. Type of activity;
 - iii. Available time period; and
 - iv. Frequency of events.

- j. For parades, the parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en-route; and
 - k. The proposed special event does not meet the grounds for denial or revocation specified in Section XI-10-13.15(O) (Permit Denial or Revocation).
- 2. In determining whether to approve a permit application, no consideration may be given to the message of the event, the content of the speech, the identity or associational relationships of the applicant or its members or affiliates, or to any assumptions or predictions as to the amount of support or hostility which may be aroused in the public by the content of the speech or the message conveyed during the event.
 - 3. The special event permit shall be deemed issued when the Director receives the applicant's written acceptance of the conditions, and the applicant has paid all required fees and deposits.

O. Permit Denial or Revocation.

- 1. The Director shall deny an application for a special event permit or revoke a special event permit if the Director finds any of the following:
 - a. Fraud, misrepresentation or any false statement contained in the application for a special event permit, including without limitation, in carrying out the special event in a way not consistent with the application;
 - b. Failure to comply with the provisions of this chapter or the regulations;
 - c. Failure to comply with the conditions of the special event permit, including without limitation, failure to timely pay applicable fees and City charges, provide indemnification or insurance certificate or security deposit within the times required, or failure to comply with all other permit requirements, licensing requirements, or regulations required to conduct the activities described as part of the special event in the permit application or any amendment thereto;
 - d. Material misrepresentation or substantial failure to comply with a special event permit issued within two years immediately preceding the date of the permit application;
 - e. The special event venue or any substantial portion thereof is not available due to fire, casualty, act of God, maintenance activity or public emergency;
 - f. The proposed event will conflict with a previously scheduled event organized by the City for use of the special event venue, or with a special event or other permitted use previously approved to be held at the special event venue;
 - g. The proposed event, as designed, will unreasonably impede, obstruct, impair or interfere with reasonable access to adjacent properties and the

applicant will not agree to redesign the proposed event so as to allow reasonable access to the adjacent properties;

- h. The special event venue, including but not limited to the proposed areas for assembly or disbanding of parades, cannot physically accommodate the number of participants expected to participate and/or the items necessary or proposed to support the event;
- i. The proposed activity or event will violate a federal, state or local law or regulation;
- j. One or more of the approval criteria specified in Section XI-10-13.15(N) (Permit Approval) is not met.

P. Final Permit Approval.

- 1. Upon receipt of the final event plans and verification that permit conditions have been met consistent with Section XI-10-13.15(N) (Permit Approval) above, the Director shall issue written confirmation that such conditions have been met in the form of a final special event permit or other written confirmation. The final special event permit or confirmation shall be issued no later than five (5) business days after receipt of the final event plans and verification of compliance with permit conditions or two (2) business days prior to the first day of the special event, whichever occurs earlier.
- 2. If the permit applicant does not submit verification that the permit conditions have been met within the applicable deadline specified in this section, the conditional special event permit will be deemed revoked.
- 3. The Director shall have the authority to extend the deadline for submission of final event plans or verification of permit conditions if good cause is shown and the nature of the special event permit reasonably and feasibly lends itself to expedited processing based on the size, location and duration of the special event, the amount of equipment proposed to be used, and the impact on traffic and on other users and surrounding businesses and residents of the special event venue.

Q. Notice of Decision.

- 1. The Director shall notify an applicant in writing of the Director's decision to approve, conditionally approve or deny the application for a special event permit or to revoke a special event permit, if the revocation is prior to the date of the proposed activity.
- 2. The notice of decision shall state the reasons for any conditions or the grounds for denial of the application or revocation of the special event permit and shall notify the applicant or Permittee of the hearing opportunity pursuant to Section XI-10-13.15(R) (Hearing).
- 3. Notification shall be deemed satisfied and issued when the notice is placed, postage prepaid, in the United States mail, and addressed to the applicant at the address shown on the permit application, with a copy sent by email at the email address shown on the permit application.

4. If the notice of decision is issued twenty (20) or more business days prior to the proposed event, a written request for hearing must be received by the Director no later than the end of the fifth business days after the date of issuance the notice of decision.
5. If the notice of decision is issued fewer than twenty (20) business days, but more than (3) three business days prior to the proposed event, a written request for hearing must be received by the Director no later than the end of the second business day after the date of issuance of the notice of decision.
6. If the notice of decision is issued three (3) or fewer business days prior to the proposed event, the notice of decision shall notify the Permittee or applicant of the time, date and location of the hearing.
7. The notice of decision shall become final unless a written request for hearing is received within the time limits set forth in this subsection.

R. Hearing.

1. Upon receipt of a timely written request for a hearing on a notice of decision to deny an application for special event permit or to revoke or appeal conditions on a special event permit, the Director shall schedule a hearing with the Planning Commission. The Director shall promptly notify the applicant or Permittee of the hearing date, time and location.
2. At the hearing, the applicant or Permittee may present any relevant evidence. The hearing will be conducted informally and the technical rules of evidence shall not apply. The Permittee or applicant may be represented by any person.
3. After closing the hearing, the Planning Commission shall give a decision sustaining, reversing or modifying the decision to deny or revoke the special event permit. A written notice of final decision shall be placed, postage prepaid, in the United States mail, addressed to the Permittee or applicant at the address shown on the permit application, with a copy sent by email at the email address shown on the permit application.
4. The decision of the Planning Commission shall be final.

S. Display of Permit.

A copy of the special event permit shall be exhibited upon demand of any City official.

T. Permit Amendment.

1. If a Permittee desires to change the location, time, or duration or other significant aspect of the description of an event subject to a special event permit, the Permittee shall apply for an amendment to the special event permit.
2. A special event permit amendment application must be filed with the Director no later than ten (10) business days in advance of the special event.
3. The Director shall grant, deny, or approve with modifications, the special event permit amendment no later than five (5) business days of receipt of the amendment application.

4. The decision of the Director shall be final.

U. Immediate Revocation - Conditions.

1. Any special event permit may be revoked on the day of the permitted activity without prior written notice and without a hearing, if the City Council, the City Manager, the Director, the Fire Marshal or the Chief of Police, or their authorized designees, determines that:
 - a. Revocation is in the interest of the immediate public health or safety because of fire, casualty, act of God or a public emergency; or
 - b. The Permittee is in violation of the provisions of this Section, the regulations, or the terms of the special event permit.
 - c. The grounds for revocation shall be communicated at the time notice is provided.
 - d. The Permittee, immediately upon receipt of the notification that the special event permit has been revoked, shall cease the activity and shall commence with restoring the special event venue to its condition prior to the activity.

V. Interference with Event.

1. It shall be unlawful for a person to place any booth, table, chair, stool, structure, vehicle, or piece of equipment in any area for which a special event permit has been issued, without the consent of the Permittee.
2. This section shall not apply to persons acting under the direction and control of the City.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.